

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

Karen Eubanks  
Plaintiff,

v.

New York City Department of Education *et al.*,

Defendant.

18 Civ. 7877 (VEC) (HBP)

**NOTICE OF DEPOSITION OF NEW YORK CITY DEPARTMENT OF EDUCATION**

PLEASE TAKE NOTICE that pursuant to Rule 30(b)(6) of the Federal Rules of Civil Procedure , and the Local Civil Rules of the United States District Court for the Southern District of New York, Plaintiff in the above-caption action, by the undersigned attorneys, will take the deposition upon oral examination of New York City Department of Education (“NYC DOE” or “Defendant”) on October 15, 2019, beginning at 10:00 a.m. until completed, or at such other time and place to be agreed upon by the parties, and continue from day to day, until completed. The deposition shall take place at the offices of Milbank LLP, 55 Hudson Yards, New York, NY 10001. The deposition will be recorded by stenographic means and will be taken before a Notary Public or other officer authorized by law to administer oaths.

The matters for examination are described in Exhibit A hereto (the “Deposition Topics” or “Topics”). Plaintiff reserves the right to supplement or amend this notice and/or Exhibit A. No fewer than five (5) business days prior to the deposition, Defendant shall provide a written

designation of the name(s) and position(s) of each officer, director, agent, or other person who will testify on behalf of Defendant.

Plaintiff reserves the right to seek discovery on additional topics, including but not limited to the issues addressed in Exhibit A.

Dated: September 11, 2019  
New York, New York

**MILBANK LLP**

/s/ Grant R. Mainland

Grant R. Mainland

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*Attorneys for Karen Eubanks*

**CERTIFICATE OF SERVICE**

I, Marion C. Burke, hereby certify that I caused a copy of the foregoing to be served on all counsel of record for the New York City Department of Education via electronic mail this September 11, 2019.

/s/ Marion C. Burke  
Marion C. Burke

**EXHIBIT A**

**DEFINITIONS**

The definitions set forth in Local Rule 26.3 of the United States District Court for the Southern District of New York shall apply to all definitions, instructions and Topics herein. The following definitions shall also apply:

1. “Absent Teacher Reserve” or “ATR” refers to employees that have been excessed and are no longer assigned to a specific school.

2. “Action” means *Eubanks v. New York City Department of Education et al*, 1:18-cv-07877-VEC-HBP.

3. “Defendant(s)”, “you”, “yourself”, or “your” refer, collectively and individually, the New York City Department of Education, and to any and all of its respective agencies, subdivisions, directors, officers, employees, trustees, beneficiaries, agents, representatives, consultants, attorneys (including Defendant’s counsel) and assigns, and all persons either acting or purporting to act on its behalf.

4. “Employees” refers to full time and temporary employees and contractors of any kind, including any teacher serving as an Absent Teacher Reserve teacher.

5. “Litigation Complaint” refers to the Complaint (ECF. No. 2) filed in the Action.

6. “Policies and Procedures” refers to any and all rules, guides, guidelines, codes of conduct, policies, procedures, and regulations.

7. In order to bring within the scope of this Notice of Deposition any information that might otherwise be construed to be outside of its scope, the following rules of construction shall apply: (a) the singular includes the plural and vice versa; (b) the masculine, feminine or neuter pronoun does not exclude other genders; (c) the rules of construction for the words “all,” “any,”

“each,” “and,” and “or,” set forth in Local Civil Rule 26.3(d) shall apply to this Notice of Deposition; (d) the word “including” should be read to mean “including, without limitation”; (e) the present tense should be construed to include the past tense and vice versa; (f) references to employees, officers, directors, or agents include both current and former employees, officers, directors, and agents; and (g) defined terms should be given their broadest meaning regardless of whether they are capitalized in the Notice of Deposition.

8. For purposes of construing the scope of the Topics, the terms used shall be given their most expansive and inclusive interpretation.

9. Each Topic shall be construed independently and not with reference to any other Topic for the purpose of limitation or exclusion.

10. The use of any definition for the purposes of this Notice shall not be deemed to constitute an agreement or acknowledgment on the part of Defendants that such definition is accurate, meaningful, or appropriate for any other purpose in this Action.

11. Unless otherwise specified, the time period applicable to each Topic is January 1, 2014 continuing to the present (the “Relevant Period”).

### **DEPOSITION TOPICS**

1. The organizational structure of the NYC DOE.
2. The organizational structure of the High School of Art and Design.
3. NYC DOE’s Policies and Procedures concerning or relating to the evaluation of the performance of its Employees, including the evaluation of teachers and ATR teachers.
4. The facts and circumstances surrounding the evaluation of Plaintiff’s performance during the Relevant Period, and all communications, records and documents pertaining thereto.

5. The facts and circumstances surrounding the changing of Plaintiff's annual performance rating for the 2016-2017 school year to Unsatisfactory, including but not limited to the identity of those responsible for making the change, the basis for the change, the existence of and location of any documentation or records evidencing the reason for the change, the Policies and Procedures which formed the basis for the change, and any foreseeable professional consequences of the change.

6. NYC DOE's Policies and Procedures concerning or relating to the assignment or reassignment of ATR teachers.

7. The facts and circumstances surrounding each assignment or reassignment of Plaintiff in her capacity as an ATR, including the reason for any such assignment or reassignment, during the Relevant Period.

8. NYC DOE's Policies and Procedures concerning or relating to discrimination or harassment based on race, ethnicity, or age and the implementation of those Policies and Procedures.

9. The existence, contents, and requirements of any Policies and Procedures applicable to or in effect at the High School of Art and Design relating to or concerning student discipline, the investigation of misconduct by students, which includes claims of harassment or discrimination by students, the implementation of these Policies and Procedures, the identity of all persons responsible for their implementation, and any breaches of these Policies and Procedures.

10. NYC DOE's Policies and Procedures concerning or related to formal or informal complaints of harassment or discrimination, including but not limited to discrimination or harassment by third-parties or students, on the basis of race, ethnicity, or age.

11. Any formal or informal complaints of harassment or discrimination, including but not limited to discrimination or harassment by third-parties or students, on the basis of race, ethnicity, or age, made by Employees of the High School of Art and Design during the Relevant Period, any investigations into such complaints, the identity of those responsible for such investigations, the conclusions of those investigations, and the form and location of any documentation or records of those investigations.

12. NYC DOE's Policies and Procedures concerning or relating to claims of retaliation, including to but not limited to retaliation in response to complaints.

13. Any formal or informal complaints of retaliation, including to but not limited to retaliation in response to complaints, made by Employees of the High School of Art and Design during the Relevant Period, any investigations into such complaints, the identity of those responsible for such investigations, the conclusions of those investigations, and the form and location of any documentation or records of those investigations.

14. Any investigation performed in response to the matters alleged in the Litigation Complaint, the conclusions of any such investigation, and the form and location of any documentation or records of those investigations, including without limitation:

- A. any investigation performed in response to the Plaintiff's reports of student misconduct at the High School of Environmental Studies;
  - B. any investigation performed in response to the Plaintiff's experience of race or ethnicity based harassment at the High School of Art and Design;
  - C. any investigation performed in response to the Plaintiff's claim that students at the High School of Art and Design directed racial slurs at the Plaintiff;
- and,

D. any investigation performed in response to the Plaintiff's claim of retaliation and misconduct at the High School of Art and Design.

15. The identity of Plaintiff's managers and supervisors during the Relevant Period.

16. The search undertaken by or on behalf of the Defendants for communications (including emails), documents and records requested by Plaintiff and/or related to claims and defenses in this Action.